

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

TREVOR LUCAS,

Petitioner,

vs.

Case No. 16-cv-454-wmc

UNITED STATES OF AMERICA,

Respondent.

MOTION TO STAY CASE

Trevor Lucas, by counsel, hereby moves the Court to stay this case pending discussions between defense counsel and the government on whether the parties might come to an agreement that would moot this habeas petition.

This case is a § 2255 action involving the application of *Johnson v. United States*, 135 S. Ct. 2551 (2015), to a prisoner who was convicted of using a firearm in relation to a “crime of violence” (attempted kidnapping) under the residual clause found at 18 U.S.C. § 924(c)(3)(B), which is closely related to the residual clause struck down in *Johnson*. See *United States v. Vivas-Ceja*, 808 F.3d 719, 723 (2015) (holding that *Johnson* invalidates the identical residual clause found at 18 U.S.C. § 16(b)). If Lucas prevails, the only offense of conviction would be vacated. Yet the government could then reinstate the original kidnapping charge and the transportation of a firearm charge.

Undersigned counsel has discussed with prosecutors the possibility of resolving Lucas's in a manner that is palatable to all parties, which would result in the voluntary dismissal of this petition. Counsel has filed Lucas's petition for relief before the deadline of June 25, 2016, in order to protect his *Johnson* claim, *see* 18 U.S.C. § 2255(f)(3) (one-year deadline), but now that the petition is filed, Lucas would ask the Court to stay this case and set a status hearing on the matter to occur in October, 2016.

Undersigned counsel has conferred with Assistant United States Attorney Laura Przybylinski Finn, who has represented that the government joins in this motion to stay the case.

Dated at Madison, Wisconsin this 23rd day of June, 2016.

Respectfully submitted,
TREVOR LUCAS, Petitioner

/s/ Joseph A. Bugni
Joseph A. Bugni

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